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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Branko Kovacevic

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EXAMINER

AN, SHAWN S

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/491,121	KOVACEVIC ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SHAWN AN	2483	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1-34 is/are pending in the application.
- 5a) Of the above claim(s) 25-32 is/are withdrawn from consideration.
- 6) ☒ Claim(s) 1-21, 33 and 34 is/are allowed.
- 7) ☒ Claim(s) 22 is/are rejected.
- 8) ☒ Claim(s) 23 and 24 is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Response to Decision by the BPAI*

1. The previous rejections of claims 16-19 and 22-24 have been reversed by the Board of Patent Appeals and Interferences on 08/02/2011. Therefore, prosecution of the above claims is reopened. A rejection for the claims on new grounds follows below.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim elements "a means for receiving ...; a first parser means for analyzing ...; a second parser means physically separate ...," are limitations that invokes 35 U.S.C. 112, sixth paragraph.

Claims 22-24 invoke means-plus-function treatment under 35 U.S.C. § 112, sixth paragraph since the claims meet the three-prong test: 1) the claim limitations must use the phrase "means for" or "step for," 2) the "means for" or "step for" must be modified by functional language, and 3) the phrase "means for" or "step for" must not be modified by sufficient structure, material, or acts for achieving the specified function.

However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function.

In this case, the means for receiving is interpreted to read on the framer (410) of Fig. 5 and as discussed in the specification on page 11, lines 7-13.

The first parser means for analyzing ..., is interpreted to read on the transport packet parser (420) of Fig. 5 and as discussed in the specification on page 11, lines 14-28 and page 12, lines 1-3.

The second parser means physically separate ..., is interpreted to read on the PES parser (430) of Fig. 5 and as discussed in the specification on page 12, lines 4-11.

Applicant may:

(a) Amend the claim so that the claim limitation will no longer be interpreted as a limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant should clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

### ***Claim Rejections - 35 USC § 103***

**3.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elzur et al (6,449,656 B1) in view of Tamer et al (5,619,501)

**Regarding claim 22**, Elzur et al discloses a system for storing packetized data, the system comprising:

- a means (Fig. 5, 92) for receiving a transmitted data packet;
- a first parser means (98) for analyzing a header of the data packet before a payload header is received (col. 3, lines 42-60); and
- a second parser means(110) physically separate from the first parser means (98) for analyzing from the header (col. 5, lines 29-44).

Elzur et al further discloses additional parser means (114) for analyzing a header of the data packet, in order to decrease the overall delay to complete the data exchange between the client and the server and to reduce the consumption of bus resources that are especially important for server and multiple controller systems (col. 7, lines 21-35; col. 2, lines 41-51).

Elzur et al discloses all of the claimed features with the exception of analyzing the payload header.

However, Tamer et al teaches a system for storing packetized data comprising:

- a means (Fig. 3, 12) for receiving a transmitted data packet; and
- a parser means for analyzing the payload header in order to detect packet payloads to which a subscriber has conditional access for entitlement information (Fig. 3, 30; Fig. 5; col. 7, lines 32-58; col. 1, lines 5-9).

Therefore, it would have been consider contentiously obvious to a person of ordinary skill in the relevant art employing a system for storing packetized data as taught by Tamer et al to incorporate/combine Elzur et al's teachings as above so that the second parser means additionally analyzes the payload header in order to detect packet payloads to which a subscriber has conditional access for entitlement information.

***Allowable Subject Matter***

5. Claims 1-2, 6-10, 13-15, and 20-21 are allowed as having incorporated allowable subject matter (novel features, emphasis added on the claim 1 limitations as a whole and the claim 13 limitations as a whole) as previously discussed in the last Office action as filed on 7/13/05.

Furthermore withdrawn dependent claims 3-5 and 11-12 are also allowed by virtue of being dependent on the allowed independent claim 1.

Independent claim 16 and corresponding dependent claims 17-19 are allowed as having incorporated allowable subject matter (novel features, emphasis added on the claim 16 limitations as a whole).

Independent claim 33 and corresponding dependent claim 34 are allowed as having incorporated allowable subject matter (novel features, emphasis added on the claim 33, last paragraph, limitations).

The prior art of record fails to anticipate or make obvious the novel features (allowable subject matter) as specified in independent claims 1, 13, 16, and 33.

6. Claims 23-24 are objected to as being dependent upon rejected base claim 22, but would be allowable (contingent upon overcoming 35 U.S.C. § 112 rejection as discussed above):

if either claim 23 or claim 24 is rewritten in independent form including all of the limitations of the base claim 22 and any intervening claims.

Dependent claims 23-24 each recites a novel feature, wherein the prior art of record fails to anticipate or make obvious the novel feature.

Accordingly, if the amendments are made to the claims listed above, and if rejected and withdrawn claims are to be cancelled, the application would be placed in a condition for allowance (based on the contingency as above).

### ***Conclusion***

7. The prior art made of record is considered pertinent to Applicant's disclosure.

A) Kovacevic et al (6,778,533 B1), System/method for accessing packetized elementary stream data.

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B) Vines (6,252,873 B1), Method of ensuring a smooth transition between MPEG-2 transport streams.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn An* whose telephone number is 571-272-7324.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Joseph Ustaris can be reached on 571-272-7383.

9. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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